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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,441	03/22/2001	Douglas D. Calaway	4830-3 (AMK)	4595
23117 7590 05/22/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER GART, MATTHEW S	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 05/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/814,441

Applicant(s)

CALAWAY ET AL.

Examiner

Matthew S. Gart

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 18-25, 27 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 18-25, 27 and 29-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/5/2007 has been entered.

Prosecution History Summary

- Claims 16-17, 26 and 28 have been cancelled.
- Claims 1-15, 18-25, 27 and 29-33 are pending in the instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-15, 18-25, 27, 30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cambridge (US 2001/0037373 A1) in view of Moneymaker (US 2002/0026374 A1).

Cambridge discloses electronically initiating a purchase of an item using a computer (Cambridge: par. 0048).

A data storage medium having at least one image of at least one item stored thereon is provided (Cambridge: par. 0047); an image of an item from the storage medium is accessed (Cambridge: par. 0069); the accessed item image is viewed on a display in communication with a local processor (Cambridge: par. 0061); the item for purchase is electronically selected for purchase (Cambridge: par. 0064) causing purchase data on the item to be stored on a writable memory device in communication with the local processor (Cambridge: par. 0065); and a first selection and a second selection are permitted.

All purchase data not supplied by a consumer is supplied by the data storage medium (Cambridge: par. 0067).

The first selection causes printing of an order form configured to initiate a purchase when physically delivered to a vendor (Cambridge: par. 0078).

The second selection causes storing of the purchase data on a device accessible by the local processor (Cambridge: par. 0091).

The at least one image comprises a three-dimensional image; and the user is permitted to selectably rotate the image (Cambridge: par. 0071).

Two sets of images as well as other promotional material is disclosed (Cambridge: par. 0070).

The method is completed without having accessed information related to the item not already contained by the removable data storage medium (Cambridge: par. 0061).

Cambridge further discloses means for establishing communication between the processor and an external network (Cambridge: par. 0068).

Purchase data may be transferred to a vendor (Cambridge: par. 0068).

Cambridge does not expressly disclose initiating and completing the purchase of the item without accessing the Internet.

Moneymaker, in a similar invention (Moneymaker: abstract), teaches initiating and completing the purchase of the item without accessing the Internet (Moneymaker: par. 0027, "The final ordering form will also enable an interested party to select whether he or she is going to pay online, by means of a credit card or EFT, or whether the interested party is going to pay offline, by means of cash or check.").

Art Unit: 3625

It would have been obvious to one of ordinary skill in the art to have modified the purchasing method and system of Cambridge to initiate and complete the purchase without accessing the Internet in order to eliminates mistakes and delays associated with transmitting credit card and/or EFT data, or other electronic payment data, to each particular merchant who receives an online order and who is then forced to transmit the received credit card and/or EFT data to his or her own third-party credit card processor (Moneymaker: par. 0012).

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cambridge (US 2001/0037373 A1) and Moneymaker (US 2002/0026374 A1) in view of Kenney (U.S. Patent No. 6,026,376).

Neither Cambridge nor Moneymaker discloses that the image comprises an electronic switch means.

Kenney, in a similar invention (col. 1, lines 37-54), teaches "clicking" on a product in a virtual environment (col. 10, lines 45-53).

It would have been obvious to one of ordinary skill in the art to have provided the image of Cambridge and Moneymaker as comprising an electronic switch means in order to automatically add an item represented by the image of Cambridge to a selected product list (Kenney: col. 12, lines 55-63).

Claims 29, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cambridge (US 2001/0037373 A1) and Moneymaker (US 2002/0026374 A1) in view of Bernard et al. (U.S. Patent No. 5,918,213).

Neither Cambridge nor Moneymaker discloses a reminder.

Bernard, in a similar invention (Abstract), teaches means for providing a reminder that pending purchase data remains (col. 5, line 61-col, 6, line 10).

It would have been obvious to one of ordinary skill in the art to have provided the invention of Cambridge and Moneymaker to have included a means for providing a reminder (at processor startup or otherwise) that pending purchase data remains (on the device or elsewhere) in order to have provided added convenience to the shopper in the event that the a transaction has not previously been completed (col. 6, lines 7-10).

Response to Arguments

Applicant's arguments filed 4/5/2007 have been fully considered but they are moot in view of the new grounds of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Gart whose telephone number is (571) 272-3955. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew S Gart
Primary Examiner
Art Unit 3625


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600